

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference DFRB-P050323	FOR FURTHER ACTION	See item 4 below
International application No. PCT/CA2005/000484	International filing date (<i>day/month/year</i>) 30 March 2005 (30.03.2005)	Priority date (<i>day/month/year</i>) 01 April 2004 (01.04.2004)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant WALKER, Simon		

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).

REPORT consists of a total of 7 sheets, including this cover sheet.

Attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

Report contains indications relating to the following items:

- | | | |
|-------------------------------------|--------------|---|
| <input checked="" type="checkbox"/> | Box No. I | Basis of the report |
| <input type="checkbox"/> | Box No. II | Priority |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input checked="" type="checkbox"/> | Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> | Box No. VI | Certain documents cited |
| <input checked="" type="checkbox"/> | Box No. VII | Certain defects in the international application |
| <input type="checkbox"/> | Box No. VIII | Certain observations on the international application |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 338 82 70	Date of issuance of this report 04 October 2006 (04.10.2006) Authorized officer <p style="text-align: center; font-weight: bold;">Athina Nickitas-Etienne</p> e-mail: pt04@wipo.int
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PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

WIPO

REC'D 27 JUL 2005
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WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:
WALKER, SIMON
Suite 203 - 11782 Hammersmith Way
RICHMOND, British Columbia
Canada, V7A 5E2

Date of mailing 19 July 2005 (19-07-2005)
(day/month/year)

Applicant's or agent's file reference
DFRB-P050323

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/CA2005/000484

International filing date (day/month/year)
30 March 2005 (30-03-2005)

Priority date (day/month/year)
01 April 2004 (01-04-2004)

International Patent Classification (IPC) or both national classification and IPC
E04H 17/22, E04H 12/22

Applicant
WALKER, SIMON

1. This opinion contains indications relating to the following items :

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/CA
Canadian Intellectual Property Office
Place du Portage I, C114 - 1st Floor, Box PCT
50 Victoria Street
Gatineau, Quebec K1A 0C9
Facsimile No.: 001(819)953-2476

Date of completion of this opinion
23 June 2005 (23-06-2005)

Authorized officer
Felix-Antoine Dandenault
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WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/CA2005/000484

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of:

- ☒ the international application in the language in which it was filed
- ☐ a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

- ☐ a sequence listing
- ☐ table(s) related to the sequence listing

b. format of material

- ☐ on paper
- ☐ in electronic form

c. time of filing/furnishing

- ☐ contained in the international application as filed.
- ☐ filed together with the international application in electronic form
- ☐ furnished subsequently to this Authority for the purposes of search.

3 ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statement that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

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Box No. IV Lack of unity of invention

1. ☒ In response to the invitation (Form PCT/ISA/206) to pay additional fees the applicant has, within the applicable time limit :
 - ☐ paid additional fees
 - ☐ paid additional fees under protest and, where applicable, the protest fee
 - ☐ paid additional fees under protest but the applicable protest fee was not paid
 - ☒ not paid additional fees
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is
 - ☐ complied with
 - ☒ not complied with for the following reasons :

The claims on file are directed to three distinctive groups of invention.

Group A, with regard to claims 1 to 5 and 12 to 17, is directed to a post system for a railing comprising a post base having an inner member and an outer member encasing the inner member where the inner and outer members are constructed of a first and a second material respectively.

Group B, with regard to claims 6 to 10, is directed to a post system for a railing comprising a railing post and an insert insertable into the first end of the railing post.

Group C, with regard to claim 11, is directed to a post system for a railing comprising a post base connectable with a first end of a railing post. The base post comprises a base member and a housing member engaging the first end of the railing post.

NB: Claims 12 to 17 have been joined to group A, but may be joined to any of the above noted groups as they contain the subject matter of groups A, B and C.
4. Consequently, this opinion has been established in respect of the following parts of the international application :
 - ☐ all parts
 - ☒ the parts relating to claim Nos. 1 to 5 and 12 to 17

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

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Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>2 to 5 and 14 to 17</u>	YES
	Claims <u>1, 12 and 13</u>	NO
Inventive step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1 to 5 and 12 to 17</u>	NO
Industrial applicability (IA)	Claims <u>1 to 5 and 12 to 17</u>	YES
	Claims <u>NONE</u>	NO

2. Citations and explanations :

Reference is made to the following documents:

D1: US 6 141 928	(PLATT)	7 November 2000	(07-11-2000)
D2: WO 91/13222	(DICKINSON)	5 September 1991	(05-09-1991)
D3: US 4 050 828	(NORO)	27 September 1977	(27-09-1977)
D4: US 3 633 862	(BREEN)	11 January 1972	(11-01-1972)

Novelty:

Explanation provided with respect to Article 33 (2):

D1 is considered the most relevant prior art document with respect to claims of group A: D1 discloses a post mounting system comprising a post (4) having a first and second ends, a post base (14 and 22) connectable to the first end of the railing post, where the post base comprises an inner member (22) and an outer member (14). The outer member (14) substantially encase the inner member (22). Fig 4 shows that the outer member (14) encase 5 out of 6 faces of the inner member (22), thus the outer member (14) substantially encase the inner member (22). As the functions of the inner member (22) and the outer member (14) are fundamentally different (outer estetic, inner structural) the material of the two member are obviously different.

With regard to claim 12, D1 further describe the post (4) as being an elongated tubular body, a insert (16) insertable within the first end of the post. The post base (14 and 22) also comprises a base member (22) and a housing member (14) connected to and extending form the base member and adapted to engage the railing post on face 43.

With regard to claim 13, the insert(16) further includes an engagement member in bolt (26).

Thus D1 discloses all the alleged inventive subject matter of claims 1, 12 and 13.

Claims 1, 12 and 13 do not meet the novelty criteria as defined in PCT Article 33 (2).

See Supplemental Box

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/CA2005/000484

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted :

The abstract does not comply with PCT Rule 8.1 (d). Each technical feature mentioned in the abstract and illustrated by a drawing in the international application should be followed by a reference sign, placed between parentheses.

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of: Box V

Inventive Step:

Explanation provided with respect to Article 33 (3):

With regard to claims 2 and 3, **D1** discloses that numerous materials are used for making fences including metals (Column 1, line 28). The specification of the material of the inner and outer members is a design choice that would be obvious and well within the reach of any skilled technician in the art of balustrade construction.

With regard to claims 14 and 15, **D1** discloses that numerous materials are used for making fences including metals (Column 1, line 28). The specification of the material of the inner and outer members is a design choice that would be obvious and well within the reach of any skilled technician in the art of balustrade construction.

With regard to claims 4, 5, 16 and 17, **D2** to **D4** disclose method and elements for connecting post bases to railing posts. Again the specification of the fasteners size is a design choice that is well within the scope of the person skilled in the art.

D2 discloses a post insert (6) connected at one end to a base (5) and having a second end (10) extending in the opposite direction inside a hollow railing post (2). The second end of the post insert features a V-shaped extrusion (7) that receives a correspondingly shaped wedge (12). A fastener (16) forces the wedge in the V-shaped extrusion to connect the post base to the railing post (fig. 1 and 2).

D3 discloses a post insert (20) for connecting a vertical railing post (14) to a horizontal rail (13). Fasteners (21) connect the post insert to the vertical railing post and horizontal rail (fig. 10).

D4 discloses a fastening method for fixing a railing post to a base. The method consists of connecting together a post base (24), a railing post (10), a post insert (41) and a fastener (20).

Claim 2 to 5 and 14 to 17 do not meet the inventive step criteria as defined in PCT Article 33 (3).

Industrial Applicability:

With regard to PCT Article 33 (4), claims 1 to 5 and 12 to 17 meet the industrial applicability criteria as defined in PCT Article 33 (4)